

TERI HEALY, TRIAL ATTORNEY  
 KATHRYN OLSON, SUPERVISORY TRIAL ATTORNEY  
 A. LUIS LUCERO, JR., REGIONAL ATTORNEY  
 EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
 909 FIRST AVENUE, SUITE 400  
 SEATTLE, WA 98104  
 TEL: (206) 220-6916  
 teri.healy@eeoc.gov

ATTORNEYS FOR PLAINTIFF

UNITED STATES DISTRICT COURT  
 FOR THE WESTERN DISTRICT OF WASHINGTON  
 AT SEATTLE

EQUAL EMPLOYMENT OPPORTUNITY  
 COMMISSION,

Plaintiff,

v.

PACIFIC COMMERCIAL EQUIPMENT, INC.  
 d/b/a AERO CONSTRUCTION,

Defendant.

CIVIL ACTION NO.

COMPLAINT

JURY TRIAL DEMAND

NATURE OF THE ACTION

This is an action under Title I of the Americans with Disabilities Act of 1990 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of disability and to provide appropriate relief to Quenton Borreson, who was adversely affected by such practices. The Equal Employment Opportunity Commission alleges that Pacific Commercial Equipment, Inc., d/b/a/ Aero Construction (“defendant” or “Aero Construction”), discriminated against Mr. Borreson, a qualified individual with a disability, when it failed to hire him because of his disability.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION  
 Seattle District Office  
 Federal Office Building  
 909 First Avenue, Suite 400  
 Seattle, Washington 98104-1061  
 Telephone (206) 220-6883  
 Fax (206) 220-6911  
 TDD (206) 220-6882

and 1345. This action is authorized and instituted pursuant to Section 107(a) of the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12117(a), which incorporates by reference Section 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5(f)(1) and (3) ("Title VII"), and pursuant to Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Western District of Washington at Seattle.

### PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is the agency of the United States of America charged with the administration, interpretation and enforcement of Title I of the ADA and is expressly authorized to bring this action by Section 107(a) of the ADA, 42 U.S.C. § 12117(a), which incorporates by reference Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. 2000e-5(f)(1).

4. At all relevant times, defendant Aero Construction has continuously been doing business in the State of Washington and has continuously had at least 15 employees.

5. At all relevant times, defendant has continuously been an employer engaged in an industry affecting commerce under Section 101(5) of the ADA, 42 U.S.C. § 12111(5), and Section 101(7) of the ADA, 42 U.S.C. § 12111(7), which incorporates by reference Sections 701(g) and (h) of Title VII, 42 U.S.C. §§ 2000e(g) and (h).

6. At all relevant times, defendant has been a covered entity under Section 101(2) of the ADA, 42 U.S.C. § 12111(2).

### STATEMENT OF CLAIMS

7. More than thirty days prior to the institution of this lawsuit, Quenton Borreson filed a charge with the Commission alleging violations of Title I of the ADA by defendant. All conditions precedent to the institution of this lawsuit have been fulfilled.

8. Since at least July 11, 2002, defendant has engaged in unlawful employment practices at its Seattle area facilities, in violation of Sections 102(a) of Title I of the ADA, 42 U.S.C. § 12112(a). Quenton Borreson is disabled under the ADA in that he is an amputee, missing his right

arm. The defendant discriminated against Mr. Borreson, a qualified individual with a disability, when  
 2 it failed to hire him because of his disability in violation of Sections 102(a) of the ADA.

3 9. The effect of the practices complained of in paragraph 8 above has been to deprive Mr.  
 4 Borreson of equal employment opportunities and otherwise adversely affect his status as an employee,  
 5 because of his disability.

6 10. The unlawful employment practices complained of in paragraph 8 above were and are  
 7 intentional.

### 8 PRAYER FOR RELIEF

9 Wherefore, the Commission respectfully requests that this Court:

10 A. Grant a permanent injunction enjoining defendant, its officers, agents, successors,  
 11 assigns, and all persons in active concert or participation with it, from unlawfully failing to provide  
 12 equal employment opportunities to employees with disabilities and to accommodate employees'  
 13 disabilities, and any other employment practice which discriminates on the basis of disability.

14 B. Order defendant to institute and carry out policies, practices, and programs which  
 15 provide equal employment opportunities for qualified individuals with disabilities, and which  
 16 eradicate the effects of its past and present unlawful employment practices.

17 C. Order defendant to make whole Quenton Borreson by providing appropriate back pay  
 18 with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary  
 19 to eradicate the effects of its unlawful employment practices.

20 D. Order defendant to make whole Quenton Borreson by providing compensation for past  
 21 and future pecuniary losses resulting from the unlawful employment practices described in paragraph  
 22 8 above, including past and future out-of-pocket losses, in amounts to be determined at trial.

23 E. Order defendant to make whole Quenton Borreson by providing compensation for past  
 24 and future non-pecuniary losses resulting from the unlawful practices complained of in paragraph 8  
 25 above, including emotional pain, suffering, inconvenience, loss of enjoyment of life, and humiliation,  
 26 in amounts to be determined at trial.

27 F. Order defendant to pay Quenton Borreson punitive damages for its malicious and

reckless conduct, as described in paragraph 8 above in amounts to be determined at trial.

2 G. Grant such further relief as the Court deems necessary and proper in the public interest.

3 H. Award the Commission its costs of this action.

4 JURY TRIAL DEMAND

5 The Commission requests a jury trial on all questions of fact raised by its complaint.

6 DATED this 23 day of April, 2004.

7  
8 A. LUIS LUCERO, JR.  
Regional Attorney

ERIC S. DREIBAND  
General Counsel

9 KATHRYN OLSON  
10 Supervisory Trial Attorney

JAMES L. LEE  
Deputy General Counsel

11 TERI HEALY  
12 Trial Attorney

GWENDOLYN Y. REAMS  
Associate General Counsel

13 BY: /s/ A. Luis Lucero, JR.  
14 EQUAL EMPLOYMENT OPPORTUNITY  
COMMISSION

15 Seattle District Office  
16 909 First Avenue, Suite 400  
17 Seattle, Washington 98104  
Telephone (206) 220-6916  
teri.healy@eeoc.gov

Office of the General Counsel  
1801 "L" Street NW  
Washington, D.C. 20507

18 Attorneys for Plaintiff  
19  
20  
21  
22  
23  
24  
25  
26  
27